

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

OLLIE GREENE, Individually as the
surviving parent of WYNDELL GREENE,
SR., WILLIAM GREENE, as the
Administrator of the Estate of WYNDELL
GREENE, SR., and MARILYN BURDETTE-
HARDEMAN, Individually and as the
surviving parent of LAKEYSHA GREENE,

Plaintiffs,

v.

TOYOTA MOTOR CORPORATION,
TOYOTA MOTOR ENGINEERING &
MANUFACTURING NORTH AMERICA,
INC., TOYOTA MOTOR SALES USA, INC.
VOLVO GROUP NORTH AMERICA, INC.
VOLVO TRUCKS NORTH AMERICA, a
DIVISION OF VOLVO GROUP NORTH
AMERICAN, LLC, STRICK TRAILERS, LLC,
JOHN FAYARD MOVING & WAREHOUSE,
LLC and DOLPHIN LINE, INC.

Defendants.

CAUSE NUMBER 3:11-cv-0207-N

JURY TRIAL DEMANDED

**DEFENDANT STRICK TRAILERS, LLC'S BRIEF IN OPPOSITION TO
PLAINTIFFS' MOTION IN LIMINE # 11 (OTHER VEHICLES)**

Defendant Strick Trailers, LLC ("Strick") respectfully requests the Court deny Plaintiffs' Motion in Limine # 11 (to exclude all reference to the design characteristics and/or crash performance of vehicles other than the vehicles involved in the subject accident. (Doc. 684, Page ID 32277)).

It is not clear what evidence Plaintiffs seek to exclude as to other trailers or their crash

performance. It is also not clear whether Plaintiffs are seeking to limit evidence solely to the subject trailer, or to the trailer model. As it applies to Strick, the motion is overly broad and would exclude highly relevant evidence:

First, Strick is entitled to give the jury a reasonably short explanation of its business, i.e. that it has been a trailer manufacturer for a number of decades, that it designs, manufactures and sells Dry Van trailers in various sizes and models, including custom trailers, and that it equips those which are required to have them with rear underride guards. Moreover, if the jury is to be instructed that Strick is to be held to the standard of an expert, Strick is entitled to put on facts relevant to its expertise, which includes the design and manufacture of other trailers.

Second, Plaintiffs' proposed alternative designs consist of other makes and models of trailers and their underride guards. They include, but are not limited, to underride guards on a 2013 Manac trailer, a 2014 Stoughton trailer, various conceptual underride guards constructed to meet European standards and appended to the back of a truck chassis or trailers, and underride guards appended to the back of a MAN truck or trailer and guard(s) for trailers designed to the 2007 Canadian standard. Discussion of the feasibility and effectiveness of alternative design guards implicates discussion of other makes and models.

Third, the issue of whether the replacement underride guard is of Strick origin necessarily involves discussion of other underride guard designs which Strick does, and does not, produce.

Finally, it is not clear what specific evidence is targeted by Plaintiffs' references to Fed. R. Evid. 602, 702, or 704. Accordingly, Strick is unable to respond. Plaintiffs should raise their objections, on this basis, to specific evidence as it is offered so that Strick has a fair opportunity to rebut the challenge.

CONCLUSION

For the reasons stated above, Defendant Strick respectfully requests the Court deny Plaintiffs' Motion In Limine # 11.

Respectfully submitted,
DAWSON & CLARK, P.C.

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ATTORNEYS FOR DEFENDANT STRICK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 4, 2014, a true and correct copy of the above and foregoing was forwarded to all counsel of record in accordance with the Texas Rules of Civil Procedure.

/S/ Donald H. Dawson, Jr.
DONALD H. DAWSON, JR.